

**Exhibit C**

***JRV Group* Confirmation Hearing Transcript**



UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

IN RE: Chapter 11  
JRV GROUP USA L.P., Case No. 19-11095 (CSS)  
Debtor. 824 Market Street  
Wilmington, Delaware 19801  
Friday, June 19, 2020

TRANSCRIPT OF TELEPHONIC HEARING RE: CONFIRMATION  
BEFORE THE HONORABLE CHRISTOPHER S. SONTCHI  
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES VIA TELEPHONE:

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OFFICE OF THE U.S. TRUSTEE

For the Official Committee  
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(Appearances Continued)

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For the U.S.A. Ellen W. Slight, Esq.  
U.S. DEPARTMENT OF JUSTICE

Also Appearing: Andrew De Camara  
SHERWOOD PARTNERS, INC.

Henry Cruz  
AMERICAN FASTBACKS

James Gansman  
Michael Hayes  
ROCK CREEK PARTNERS, LLC

Mark Gottlieb  
BXV PARTNERS



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1 (Proceedings commence at 10:05 a.m.)

2 THE COURT: Good morning, everybody. This is Judge  
3 Sontchi. We are here in the JRV Group case, 19-11095.

4 We are obviously proceeding remotely, which means  
5 that all audio is through CourtCall. There is no audio  
6 through Zoom. If you want to be heard or hear what's going  
7 on, you need to be on CourtCall.

8 Also, with CourtCall, it's always very important to  
9 please mute your phones, unless you are speaking. That's  
10 particularly true if you're on a cell phone, a speaker phone,  
11 or even ear buds. We get a lot of background noise. And  
12 identify yourself as often as possible. And I am actually  
13 getting some background noise right now, so there may be  
14 someone who has not muted his or her phone.

15 Thank you for appearing by Zoom. That's very  
16 helpful for the Court, especially if we have any dialogue as  
17 to substance. But again, no video -- or excuse me-- no audio  
18 on Zoom; it's only video.

19 I don't anticipate any problems, but if there are  
20 any disruptions with Zoom bombers, et cetera, we have some  
21 strategies in place to deal with that. That's, for example,  
22 why you were in the -- excuse me. That, for example, is why  
23 you were in the waiting room to utilize that to take care of  
24 people who are disrupting the matter. If worse comes to  
25 worst, and I can't get it under control, we will simply



1 terminate the Zoom portion of the call and continue on  
2 CourtCall.

3 Just so everyone knows, also, because of security,  
4 I will not be admitting anyone to Zoom after the first ten  
5 minutes of the hearing. If you fall off for any reason and I  
6 recognize your name -- which I probably will, since there's a  
7 few -- not that many of you on the phone today or on Zoom  
8 today -- I will let you back in. But if any new people show  
9 up or anybody with a strange ID, they will not be admitted  
10 after the first ten minutes of the call.

11 So those are the dos and don'ts. I'll turn it over  
12 to the debtor.

13 MR. ROBINSON: Good morning, Your Honor. Colin  
14 Robinson, Pachulski, Stang, Ziehl & Jones, on behalf of JRV  
15 Group, the debtor.

16 Your Honor, I'm joined today by my colleagues Jeff  
17 Dulberg, Rob Saunders, and Steve Kahn. Also with us is  
18 Andrew De Camara, the CRO of the debtor. And Your Honor, we  
19 have co-counsel from Barnes & Thornburg, Mr. Kaltenmark, and  
20 Mr. Cruz, also with the debtor.

21 Your Honor, we really just have one item on the  
22 agenda today, that's confirmation of the joint plan of  
23 liquidation filed by the debtor and the committee. Just from  
24 the standpoint of the agenda, Your Honor, we resolved all  
25 objections, minus a couple open issues with Ms. Casey's



1 office. We resolved the objections with language in the  
2 order with the United States with Ms. Slights. And what I'll  
3 call the "Gerzeny objection" has also been resolved. I'm  
4 going to have some bullet points to read into the record in a  
5 little bit.

6 So, unless Your Honor has any questions --

7 THE COURT: I don't know what -- the what  
8 objection?

9 MR. ROBINSON: I'm sorry, Your Honor.

10 THE COURT: What are you calling it?

11 MR. ROBINSON: Gerzeny --

12 THE COURT: I don't see that on the agenda. Are  
13 you talking about RV World?

14 MR. ROBINSON: Yeah, sorry. RV World, yes, RV  
15 World.

16 THE COURT: Okay.

17 MR. ROBINSON: We've resolved the RV World  
18 objection and we'll have some -- a settlement to provide on  
19 the record to Your Honor that will then be documented down  
20 the road.

21 THE COURT: So I assume that also -- I assume that  
22 also resolves their motion?

23 MR. ROBINSON: Yes, their motion and the objection  
24 --

25 THE COURT: For their claims.



1 MR. ROBINSON: -- the objection -- correct, Your  
2 Honor, yes. Yes.

3 THE COURT: Okay.

4 MR. ROBINSON: It resolves -- and frankly, a  
5 pending adversary proceeding, as well.

6 THE COURT: Okay.

7 MR. ROBINSON: Okay. So, Your Honor, for good  
8 reason, we haven't been before Your Honor on this case for a  
9 long time. I think I looked back and we -- it may have been  
10 September of last year for the sale hearing. And we're  
11 before you today for good reason, and we've been working hard  
12 behind the scenes to get to a consensual confirmed joint plan  
13 of liquidation between the committee and the debtor's secured  
14 lender.

15 The plan was the result of a global settlement that  
16 we brought before Your Honor back in November of last year  
17 and which was approved. And following that, all the parties  
18 worked hard to come up with a joint plan of liquidation.

19 And as Your Honor may recall how this case started  
20 out, the number one reason for this -- filing this case was  
21 safety. The asset at issue was -- is the debtor's outfitted  
22 Jeeps, which ran into some NHTSA issues, in terms of the  
23 weight. And the owners of the company wanted to address  
24 those safety issues through the Chapter 11 process. And when  
25 the case initially started, the idea was Chapter 11 was going



1 to be used to dismantle these Jeeps, get them off the road,  
2 sell the parts.

3 And then we had a fortuitous turn of events, we had  
4 a committee appointed. And we were able to move and pivot to  
5 a sale process, a very successful sale process that brought  
6 in a significant amount of proceeds into the estate that  
7 initially hadn't been thought that we would be able to get.  
8 And those proceeds, thanks to the cooperation and consents --  
9 consensus with the committee and the DIP lender, led to the  
10 global settlement, so that we were able to provide for a  
11 return to general unsecured creditors, and at the same time  
12 able to accomplish the ultimate goal, which was to remove the  
13 Jeeps off the road and get them to a purchaser that was able  
14 to kind refit them, so they're safe. And we've accomplished  
15 that, and that's why we're before Your Honor today. And it  
16 really -- I can't stress enough, it really was a cooperative  
17 effort between the committee, the debtor, and the debtors'  
18 lenders.

19 So, Your Honor, with that, the first thing I wanted  
20 to do was actually read into the record the proposed  
21 settlement with Gerzeny -- if you don't mind, we can just  
22 call them "Gerzeny" -- to start that off, Your Honor.

23 THE COURT: Okay. And for the record, Gerzeny is  
24 G-e-r-z-e-n-y, for the transcript.

25 You may.



1 MR. ROBINSON: Thank you, Your Honor.

2 And I believe, Your Honor, Mr. Harvey, their  
3 counsel, is on the phone, so ...

4 Your Honor, the debtors and the creditors'  
5 committee have agreed to a settlement with RV World of  
6 Nokomis, a/k/a Gerzeny, under which Gerzeny has agreed to  
7 drop its objection for the combined plan and disclosure  
8 statement, and the releases it contains and under which the  
9 debtor will propose -- drop its opposition to the allowance  
10 of Gerzeny's claim for voting purposes.

11 To reach this settlement, the debtors agree to make  
12 a cash payment of \$32,500 to Gerzeny on the effective date of  
13 the plan, to dismiss with prejudice the adversary proceeding  
14 that it's brought against Gerzeny, and provide Gerzeny the  
15 release of certain claims related to modified Jeeps that have  
16 been sold, consigned, or delivered to Gerzeny, including any  
17 claims for turnover.

18 Under the settlement, Gerzeny shall be permitted to  
19 sell the three modified Jeeps that are still in its  
20 possession, subject to the obligation to remediate those  
21 vehicles to comply with NHTSA -- N-H-T-S-A -- regulations and  
22 to indemnify the secured lenders and their owners,  
23 affiliates, and certain of their personnel in connection with  
24 any damages such parties suffer in connection with Gerzeny  
25 sales of these vehicles, including reasonable legal fees up



1 to a cap of \$150,000.

2           Additionally Gerzeny shall retain its unsecured  
3 claim as reduced by the thirty-two-thousand-five-hundred-  
4 dollar cash payment it shall receive and any further  
5 mitigation of its claim it undertakes. However, it shall  
6 waive the first \$8,125 of recovery it would otherwise be  
7 entitled to receive in respect of its unsecured claim.

8           Memorialization of this settlement shall be  
9 submitted to the Court, and the parties thereto shall submit  
10 an order to the Court under certification of counsel  
11 approving the settlement. And that concludes the recitation  
12 of the proposed -- of the settlement, Your Honor.

13           THE COURT: Mr. Harvey, any comment?

14           MR. HARVEY: Your Honor, just I wanted to echo  
15 that, you know, that generally that was a correct recitation.  
16 It remains subject to documentation, particularly where we're  
17 going to engage in good faith negotiations here over the  
18 scope of the releases being provided under the settlement  
19 agreement.

20           THE COURT: Thank you.

21           Mr. Ward, any comment?

22           MR. WARD: Thanks, Your Honor. We do want to speak  
23 generally in favor of the plan, but no comments with respect  
24 to the Gerzeny settlement.

25           THE COURT: Okay. Very good. Thank you.



1           Anyone else on the Gerzeny issues?

2           (No verbal response)

3           THE COURT: All right. Thank you, Mr. Robinson.

4           You may continue.

5           MR. ROBINSON: Thank you, Your Honor. Your Honor,  
6           if you may recall, Ms. Slight's office filed an objection on  
7           behalf of the U.S. Government. We have resolved that  
8           objection. We worked out agreed language with Ms. Slight  
9           that is part of the revised confirmation order; I believe  
10          it's Paragraph 39. And I don't see Ms. Slight on the Zoom,  
11          I don't know if she's on the phone. But I can report we are  
12          resolved with Ms. Slight.

13          MS. SLIGHTS: Yes, Your Honor. This is Ellen  
14          Slight representing the IRS. And Mr. Robinson is correct,  
15          the language that we've negotiated does resolve the  
16          objection.

17          THE COURT: All right. Very good. It's nice to  
18          hear your voice.

19          MS. SLIGHTS: Thank you.

20          THE COURT: That's good to hear, that you were able  
21          to resolve.

22          MS. SLIGHTS: Thanks.

23          MR. ROBINSON: And Your Honor, I'd be remiss if we  
24          -- Ms. Johnson and I worked with Ms. Slight to get there,  
25          and we do appreciate her cooperation and she was quite



1 responsive, so we're grateful for that, as always.

2 Your Honor, that just leaves the United States  
3 Trustee's objections, which we've resolved the vast majority  
4 of, and there's just a couple of issues. Before I got there,  
5 I just wanted to take care of the housekeeping in terms of  
6 the declarations for admission.

7 THE COURT: Okay.

8 MR. ROBINSON: Okay. Your Honor, initially, in  
9 response to the United States' objection, we filed three  
10 declarations that they're now moot, but I'd still like to  
11 move them in evidence. The first is the declaration of  
12 Steven Kahn, that's at Docket Number 432.

13 THE COURT: Uh-huh.

14 MR. ROBINSON: Do you want to do them all together,  
15 Your Honor, or one at a time?

16 THE COURT: Yeah, let's do them all together.

17 MR. ROBINSON: Okay. Thank you, Your Honor.

18 The second is the declaration of Mr. Henry Cruz,  
19 that is at Docket Number 433. The third is the declaration  
20 of Randy J. Kaltenmark at Docket 434. In support of -- those  
21 were addressing the I-R -- or the U.S. objection, Your Honor.

22 Your Honor, in terms of confirmation, we have the  
23 declaration from James Gansman of Rock Creek Advisors, the  
24 committee's financial advisor; that's at Docket 435.

25 THE COURT: Okay.



1 MR. ROBINSON: Your Honor, there's also the  
2 declaration of the debtors' CRO, Andrew De Camara, at Docket  
3 436.

4 THE COURT: Okay.

5 MR. ROBINSON: And Your Honor, I want to --  
6 numerically, out of order, but last, but not least, is the  
7 declaration of our -- Mr. Brad Daniels, our balloting agent,  
8 with BMC, and that's at Docket Number 430.

9 THE COURT: Okay. I think I see Mr. Kahn and Mr.  
10 Cruz. I'm not sure if I see Mr. Kaltenmark. There he is, I  
11 see Mr. Kaltenmark. And Mr. Gansman, I think I saw you, as  
12 well. Is Mr. Gansman on the video?

13 MR. GANSMAN: Your Honor, I am -- I'm on CourtCall;  
14 I could not get in through Zoom.

15 THE COURT: Okay. I'm sorry to hear that, I  
16 apologize. That may have been on our side.

17 And do we have the balloting agent on the phone?

18 (No verbal response)

19 THE COURT: Mr. Robinson?

20 MR. ROBINSON: I understood he was, Your Honor. I  
21 don't hear him.

22 THE COURT: You might be on mute, sir, if you're --  
23 if I'm not hearing you.

24 THE OPERATOR: And Your Honor, this is CourtCall.  
25 I do show Mr. Robinson connected with a live line.



1 (Pause in proceedings)

2 THE OPERATOR: Would you like me to check his line,  
3 Your Honor?

4 THE COURT: Well, I have Colin Robinson on my list.  
5 Is the -- what's the name of the balloting agent, Mr.  
6 Robinson?

7 MR. ROBINSON: Brad Daniel with BMC, Your Honor.

8 THE COURT: Do you have a Brad Daniel, Cynthia?

9 THE OPERATOR: I do not, Your Honor.

10 THE COURT: Okay.

11 MR. ROBINSON: Your Honor, we'll --

12 THE COURT: All right.

13 MR. ROBINSON: Sorry, Your Honor.

14 THE COURT: Well, that's okay. It's just the  
15 balloting agent. So, Ms. Casey, do you have any -- since you  
16 have the only pending objection, do you have any objection to  
17 the Court allowing the balloting agent's declaration, even  
18 though he is not present for cross-examination?

19 MS. CASEY: No objection, Your Honor.

20 THE COURT: Okay. All right. Well, we'll allow  
21 that.

22 Any objection to the admission of any of the  
23 declarations that were just identified on the record?

24 (No verbal response)

25 THE COURT: Okay. I hear none. They're admitted



1 without objection.

2 (Kahn Declaration received in evidence)

3 (Cruz Declaration received in evidence)

4 (Kaltenmark Declaration received in evidence)

5 (Gansman Declaration received in evidence)

6 (De Camara Declaration received in evidence)

7 (Daniels Declaration received in evidence)

8 THE COURT: Does anyone wish to cross-examine any  
9 of the witnesses, other than the balloting agent, who's not  
10 here?

11 (No verbal response)

12 THE COURT: Okay. I don't hear any; I have no  
13 questions, so that takes care of that.

14 Should we turn to Ms. Casey's objection?

15 MR. ROBINSON: Yes, Your Honor. I'll let -- I'll  
16 turn it over to Ms. Casey. I -- and she'll correct me if I'm  
17 wrong. I believe the remaining issues as to Ms. Casey's  
18 objection have to do with the proposed third-party release in  
19 the plan and the objection as to that there's a de facto  
20 discharge being provided under the plan. And I'll let Ms.  
21 Casey set out her position, and if -- and I'll just respond,  
22 Your Honor.

23 THE COURT: That's fine.

24 Ms. Casey, you may proceed.

25 MS. CASEY: Good morning, Your Honor. Linda Casey



1 on behalf of the United States Trustee.

2 Your Honor, we -- that is the two remaining issues.  
3 The first issue is that the debtor here is a liquidating  
4 corporate entity as an LLC and is not entitled to a discharge  
5 under the Bankruptcy Code. While the plan itself doesn't  
6 provide the express word "discharge," it does include  
7 provisions that would result in the equivalent of a  
8 discharge.

9 First and primarily would be Section 17.3, which  
10 provides that the payments under the plan are in full  
11 satisfaction of all of the claims and interests of the  
12 debtors. And then you also add the releases, both the  
13 express releases and the third-party releases that release  
14 all claims against the debtors, and the injunction that  
15 enjoins those released claims and the claims that are  
16 satisfied. And what you end up with a debtor who is not  
17 entitled to a discharge, having no claims that are not being  
18 paid through the plan enforceable against the debtor, which  
19 is the functional equivalent of a discharge.

20 The plan payments are not, in fact, in settlement  
21 of the claims. They may be in settlement of the obligations  
22 under the plan to make disbursements, but they are not in  
23 settlement of the underlying claims. Creditors here are not  
24 receiving full payment, creditors here are not consenting to  
25 a reduction of their claims. They are consulting solely to -



1 - or those who have voted for it have voted to accept a plan  
2 that is providing treatment that is less than full payment.  
3 But they are not, in fact -- there is no accord in  
4 satisfaction or agreement that the plan distribution somehow  
5 reduces their claim and discharges the remaining portion of  
6 it.

7 So, individually and combined, these provisions,  
8 the releases, the injunctions, and 17.3 that says that the  
9 plan payments are in satisfaction of the claim all work to  
10 provide that no entity can continue to enforce a claim  
11 against the debtors. And in fact, that would be the  
12 functional equivalent of a discharge, which is not  
13 permissible.

14 Certainly, there's nothing in the plan -- our  
15 objection is not to say that the injunction cannot protect  
16 the estate or the liquidating trust from claims, but the --  
17 their corporate entity is not entitled to a discharge. And  
18 therefore, as to the debtor, these provisions are  
19 inappropriate.

20 We also object to the third-party releases. Your  
21 Honor is very familiar with our arguments, we have made them  
22 before, so I'll be very brief. But in this plan, you have  
23 unimpaired creditors and fully impaired creditors have to  
24 file an objection to opt out of the releases. And creditors  
25 in voting classes have to either reject the plan and mark off



1 that they are opting out; or, if they do not wish to vote, so  
2 they're abstaining creditors, opt out. And it is the U.S.  
3 Trustee's position and has been in these cases that the  
4 consent cannot be deemed from non-action. You actually have  
5 to take an affirmative action to indicate that you are  
6 consenting to a claim. And we object to deeming consent  
7 where we don't have an affirmative action.

8 Again, we've made this argument before, so I'm  
9 willing to truncate my oral argument on that point. If Your  
10 Honor doesn't have any questions, that's our objection.

11 THE COURT: Thank you very much. I appreciate it.  
12 No, no questions.

13 Mr. Robinson --

14 MS. CASEY: Thank you.

15 THE COURT: -- do you wish to be heard?

16 MR. ROBINSON: Yes, Your Honor, just briefly. I  
17 will note -- and I should have said this at the beginning,  
18 Your Honor -- we did appreciate -- Ms. Casey did give us  
19 several comments in the run-up to here that we were able to  
20 work through, so we're just happy to have these two remaining  
21 issues today. We appreciated her efforts on that.

22 Your Honor, I'll take the second one -- I'll take  
23 the second one, first, in terms of the release. Your Honor,  
24 we think this Court is (indiscernible) the type of third-  
25 party releases that are being sought here today are



1 appropriate. We provided the appropriate notice, in terms of  
2 the balance and the opt-in/opt-out and the notice to the  
3 parties.

4 Your Honor, as set forth in the declaration, both  
5 from Mr. De Camara and Mr. Gansman, these releases are an  
6 integral part of the plan. They're something that were  
7 bargained for in good faith amongst all the parties and the  
8 debtor is seeking the releases. And the released parties  
9 made significant -- or they're the crux of the case,  
10 contributions to get here to, not only the global settlement,  
11 the committee settlement that we got approved in November,  
12 but also the combined plan and disclosure statement. The  
13 debtor doesn't believe there's any material claims that were  
14 worth pursuing or retaining, and that's why the debtor  
15 supports the release.

16 And then all of the parties-in-interest are going  
17 to benefit from these transactions. Again, without the  
18 cooperation of all the parties seeking the third-party  
19 release, we wouldn't be here today with a plan that provides  
20 a distribution to general unsecured creditors. And we think  
21 it's fair and reasonable. And Your Honor, I'll just -- from  
22 a voting perspective, all three voting classes approved the  
23 plan.

24 On the discharge part of it, Your Honor, I think  
25 that -- I understand Ms. Casey's point. But I think, when



1 you -- we're not asking for a discharge, there's no specific  
2 language. And what's being asked for, in terms of the  
3 releases for the debtor, the third-party releases, is  
4 reasonable. And the claims are being released, but that's  
5 part of the negotiation and agreement of a plan. And I'm a  
6 little -- it's -- that's really all I have to say about that,  
7 just --

8 THE COURT: Okay. Sorry, I forgot to un-mute my  
9 phone.

10 Anyone else wish to heard?

11 MR. WARD: Your Honor, at some point, the committee  
12 would like to speak in favor of the plan, at the appropriate  
13 time.

14 THE COURT: No comment on the specific objection of  
15 Ms. Casey, though?

16 MR. WARD: And with respect to Ms. Casey's  
17 objections, yes, we also have a couple of observations, Your  
18 Honor.

19 THE COURT: All right. Well, let's hear them.

20 MR. WARD: First, Your Honor, it's -- we think that  
21 the releases were consensual. As Your Honor knows, the  
22 determination of whether a third-party release is consensual  
23 is (indiscernible) circumstances of each case. And we cited  
24 a number of cases in our brief that talk about affirmative  
25 consent; in other words, opting into a third-party release is



1 not required in order for it to be consensual. Here, all of  
2 the creditors had the opportunity to opt out of the release,  
3 either through checking the box or objecting to the plan.  
4 There as no death trap in the plan, you know, for failure to  
5 agree to the release. It didn't impact their recoveries.

6 And I would just point Your Honor to the  
7 Indianapolis Downs cases, as well as Your Honor's Molycorp  
8 case, which we cited in our brief, for the proposition that a  
9 third-party release is consensual against even abstaining  
10 parties, so long as they have the opportunity to opt out and  
11 fail to do so.

12 And that's what we had here, Your Honor. We had  
13 two classes, Classes 7 and 8, which were deemed to reject the  
14 plan, but they were given the option to opt out, Your Honor.  
15 And just with respect to the circumstances of this particular  
16 case, as you drill down on those classes, those fully  
17 impaired creditors are all affiliates or controlled by Corner  
18 Flag, the DIP lender. So there's really no prejudice to  
19 those two classes.

20 Corner Flag -- and I'll talk about this in closing,  
21 as we talk about the plan as a whole -- was instrumental in  
22 getting us to this deal. And it's also a beneficiary of the  
23 third-party releases. But you know, as I'll explain, it is  
24 deferring payment even on its DIP, in order to get us to this  
25 plan.



1           So, if you look at Class 7, Class 7 was  
2           intercompany claims. That consists of the claims held by  
3           EHG&A, that's the Canada affiliate, which, as we noted in our  
4           brief, that's owned by Corner Flag. And Class 8 is -- that  
5           consists of the equity interests, the ownership of the  
6           debtor. That was 1 percent ownership held by JRV Group USA  
7           Management Corp., and 99 percent held by JRV Group Holding  
8           USA, LP. Both of those entities are also directly or  
9           indirectly owned by Corner Flag.

10           So deeming to reject didn't cause anybody any  
11           prejudice with respect to Classes 7 and 8. And again, all of  
12           the creditors were given the option to opt out under the  
13           plan. And under those circumstances, coupled with Corner  
14           Flag's support of the plan, we think that the releases are  
15           consensual and the plan should be approved.

16           THE COURT: All right. Thank you.

17           Anyone else before I rule?

18           (No verbal response)

19           THE COURT: Okay. Well, we'll take the second  
20           point first. And as Ms. Casey acknowledges, I've ruled on  
21           this on numerous occasions, and they continue to raise it,  
22           which is fine. I understand their position, and certainly  
23           reasonable minds can disagree, and you never know when I'm  
24           going to change my mind. So keep plugging away.

25           But I noticed some inconsistency on the Court with



1 regard to this, but I do view a -- I do view giving people a  
2 release that then goes out on reasonable notice that says, if  
3 you don't want to give it, you have to either opt out, vote  
4 no, et cetera, is constructive consent. And I think these  
5 releases are consensual. People have been given reasonable  
6 notice, consistent with due process; an opportunity to object  
7 or opt out, they've chosen not to do so. I believe that's  
8 constructive consent. So I'll overrule that objection.

9           With regard to the de facto discharge point, that's  
10 an interesting point and very creative. Clearly, they're not  
11 entitled to a discharge under 1141 -- I believe is the magic  
12 number, but I may be wrong -- and there is no discharge here  
13 under that provision. However, there are independent  
14 provisions that, when taken in concert, arguably provide for  
15 a de facto discharge. And now Ms. Casey went through that  
16 very well and clearly, and I think it's a fair point. I  
17 think it's a fair point to say that there is a de facto  
18 discharge here.

19           But the important point is that all three  
20 provisions that she discussed stand, I believe, on their own  
21 as appropriate and authorized by the Code. So, if you have  
22 three independent factors, all of which are appropriate, all  
23 of which are supported by the evidence, and all of which are  
24 authorized under the Code, and the de facto effect is that  
25 they give a de facto discharge, I really don't think that



1 undoes what you were otherwise allowed to do. That may be  
2 the de facto effect.

3 But we often, in the law, have sort of knock-on  
4 effects like this, where we have authorized activities that  
5 might have a knock-on effect of providing some de facto  
6 relief, especially when done in combination with other  
7 factors, other elements, that you wouldn't otherwise be  
8 authorized to get. So I'm not saying it's not a good point,  
9 but my belief in ruling is that the fact that the elements  
10 that result in the de factor discharge are all appropriate,  
11 supported by the evidence, supported by the law, supported by  
12 the Code, and the fact that, when you combine and you end up  
13 with a de facto discharge -- which you obviously can't have a  
14 per se discharge in the plan -- I think is of no moment. So  
15 I am going to overrule that objection, as well.

16 Now no more objections, Mr. Robinson?

17 MR. ROBINSON: No, Your Honor, no -- there are no -

18 -

19 THE COURT: Okay.

20 MR. ROBINSON: -- remaining objections.

21 THE COURT: I got the revised order right before  
22 the hearing.

23 MR. ROBINSON: I apologize, Your Honor.

24 THE COURT: That's okay, that happens.

25 And it looks like what was printed out,



1 unfortunately for me, was the clean and not the blackline.  
2 So, before we turn to the order, is there anything anyone  
3 would like to say in connection with confirmation? I guess  
4 this is your chance, Mr. Ward --

5 MR. WARD: Your Honor --

6 THE COURT: -- to make the speak you want to make.

7 MR. WARD: Well, Your Honor, I do want to echo Mr.  
8 Robinson's comments at the beginning of the case, that -- and  
9 just reiterate how collaboratively the parties worked  
10 together here. Your Honor may recall, on day one of the  
11 case, the debtors told the Court that this case was doomed  
12 for conversion to Chapter 7. And really, Your Honor, at the  
13 time, the future of this case did look pretty bleak because  
14 the biggest asset, really the only asset of the debtors, were  
15 these vehicles that were overweight and they were unable to  
16 be sold.

17 So, recognizing that safety was the main concern of  
18 all the parties, at that point, what the debtor proposed to  
19 do was simply disassemble the Jeeps and sell off the parts  
20 and convert the case to Chapter 7. And in one of our  
21 preliminary meetings with the debtor's professionals, the  
22 committee suggested -- really, it was the committee's  
23 financial advisor, Jim Gansman at Rock Creek Advisors, who  
24 suggested that we disassemble a limited number of the Jeeps  
25 and compare the price that we would get through that



1 disassembly with the price that we could get through  
2 modifying the Jeeps, in order to make them compliant with  
3 NHTSA, so that they could be sold. So the debtors agreed  
4 with that approach, that was a big concession on the debtor's  
5 part, and that was documented in the Court's first sale  
6 order.

7           So the parties ultimately determined that that was,  
8 in fact, the better approach to maximize value, while also  
9 maintaining safety. So we, as the creditors' committee, we  
10 worked with the debtors to consummate a sale for all of the  
11 Jeeps in a way that complied with NHTSA and continued to  
12 ensure safety. And in that respect, it was extremely  
13 helpful, Your Honor, to have one of our committee members,  
14 Deaver Motors, which is a car dealer and was intimately  
15 familiar with selling vehicles, and especially with the NHTSA  
16 regulations.

17           Concurrent with the sales, Your Honor, the  
18 committee also worked with the debtors to negotiate with  
19 Corner Flag to allocate sufficient funds to allow us -- to  
20 allow the debtor to operate during the sale process, and then  
21 eventually to cover administrative and priority claims  
22 necessary to allow a plan to be confirmed, as well as  
23 additional professional fees that would arise because this  
24 case was going to be prolonged, in order to get to  
25 confirmation. And I'll just say, Your Honor, after intense



1 negotiations by all the parties -- and that included in-  
2 person meetings, both in Delaware, as well as in New York --  
3 we were able to get to that resolution. And after that  
4 settlement, the committee's professionals, especially my  
5 partner Ericka Johnson -- who is on the video call -- took  
6 the laboring oar on preparing a joint plan and a disclosure  
7 statement that's before Your Honor.

8 I want to emphasize, Your Honor, that the plan  
9 calls for significant concessions by Corner Flag, including  
10 deferring even amounts that are payable to Corner Flag under  
11 the DIP. And that would be to cover operating costs to get  
12 us to where we are today, as well as administrative costs,  
13 administrative expenses, priority claims, professional fees,  
14 and even a carveout for general unsecured creditors. It also  
15 allows for the establishment of a litigation trust to pursue  
16 what we believe to be valuable causes of action.

17 Your Honor, none of this would have been possible  
18 without Corner Flag's support and the collaborative effort of  
19 all of the professionals. So this really is, truly, a good  
20 result for everybody. Value was maximized, safety was  
21 ensured, and all constituents get a recovery. And that just  
22 simply wouldn't have been possible without everybody working  
23 together.

24 THE COURT: Thank you very much.

25 Anyone else?



1 MR. HARVEY: Your Honor, this is Matthew Harvey  
2 from Morris, Nichols, Arsht & Tunnell, on behalf of Gerzeny's  
3 RV World.

4 I neglected to say earlier my comments that, you  
5 know, obviously, this is a confirmation hearing, and we had  
6 an objection to confirmation; we had a voting objection. Our  
7 settlement is not yet fully documented. I think the terms  
8 read in were consistent with it. The issue we're dealing  
9 with is the scope and extent of the release and I think we'll  
10 get there. I just wanted to note that, to the extent we  
11 don't get there, I'm -- my client's rights regarding its  
12 claim and the priority of its claim that we asserted in our  
13 papers are reserved. That's all I have, Your Honor. Thank  
14 you.

15 THE COURT: Do you need to make any changes to the  
16 confirmation order, Mr. Harvey?

17 MR. HARVEY: I have not reviewed the latest  
18 confirmation order that came through this morning, Your  
19 Honor.

20 THE COURT: Okay. Anyone else?

21 (No verbal response)

22 THE COURT: All right. So let's do this. I'm  
23 going to confirm the plan. I'm going to approve the  
24 disclosure statement. Obviously, all the 1129 factors have  
25 been met. There was adequate information under 1125. All



1 objections are either resolved or overruled.

2 What I would propose, Mr. Robinson, is that you  
3 touch base with Mr. Harvey and anyone else on the latest form  
4 of order that you submitted this morning and I have not read  
5 because we literally got it minutes before the hearing. I  
6 will read that, as well. But after you have had a discussion  
7 with everybody, if you could submit the proposed order under  
8 certification of counsel with a blackline and upload the  
9 clean. And assuming everybody is on board with the order and  
10 I have -- don't have any problems with it, I'll get it signed  
11 as soon as possible. If there are any issues, I'll let you  
12 know. And if anybody has any issues, I'll either deal with  
13 it or we might have to have a call, but I doubt that will be  
14 the case. Is that acceptable?

15 MR. ROBINSON: Yes, that is, Your Honor. Yes, Your  
16 Honor, that is, and we'll follow that instruction.

17 THE COURT: Okay.

18 MR. ROBINSON: And Your Honor, just for the record,  
19 Mr. Daniel did join. I apologize. I think I might have  
20 crossed him up on the new start time of the hearing, so he  
21 did join the hearing and --

22 THE COURT: Okay.

23 MR. ROBINSON: So just to let you know that.

24 THE COURT: So -- well, we won't cross-examine him  
25 now and publish him for being late.



1 (Laughter)

2 THE COURT: All right. And thank you -- well, that  
3 was my request --

4 MR. ROBINSON: No problem.

5 THE COURT: -- to move the hearing, so I appreciate  
6 everyone's flexibility. There's a -- as you can tell,  
7 probably, I'm -- this is not what my house looks like, I'm in  
8 court. I find it much more useful to be in chambers. So  
9 there are some protests planned outside the courthouse this  
10 afternoon, so I wanted to get everything done, if at all  
11 possible, and allow everyone to get home prior to that, just  
12 as -- not that I expect anything to happen, but you know, you  
13 need to be cautious. So I appreciate you agreeing to the  
14 continuance -- or excuse me -- to the earlier time frame.

15 So I'll just await the order. It probably won't  
16 get done this afternoon. Like I said, we're going to be out  
17 of chambers, but we'll certainly get it done either over the  
18 weekend or first thing Monday, depending on when you submit  
19 it. Okay?

20 MR. ROBINSON: Thank you, Your Honor.

21 THE COURT: All right. Well, I'm glad --

22 MR. ROBINSON: We appreciate you taking the time  
23 today.

24 THE COURT: I'm certainly glad this case worked out  
25 so well, to say the least. It did not look so good when it



1       came in. As a former Jeep owner and somewhat of a Jeep  
2       enthusiast, I'm glad these cars are -- these SUV/cars are  
3       still on the road. I'm tempted to buy one, but I think that  
4       would be inappropriate. And I would certainly have trouble  
5       with the Missus if I came home with yet another --

6               (Recorded proceedings concluded at 10:41 a.m.)

7                               \*\*\*\*\*



CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter to the best of my knowledge and ability.

A handwritten signature in black ink, appearing to read "Coleen Rand", is written over a horizontal line.

June 23, 2020

Coleen Rand, AAERT Cert. No. 341

Certified Court Transcriptionist

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